

## Environmental Protection Agency

## § 205.162-2

(d) Any tested vehicle which demonstrates conformance with the applicable standard may be distributed into commerce.

(e) Any distribution into commerce of a vehicle which does not comply with the applicable standard is a prohibited act.

### § 205.160-8 Prohibition of distribution in commerce; manufacturer's remedy.

(a) The Administrator will permit the manufacturer to cease testing under § 205.160-7 after the manufacturer has taken the following actions:

(1) Submission of a written report to the Administrator which identifies the reason for the noncompliance of the vehicles, describes the problem and/or quality control or quality assurance remedies to be taken by the manufacturer to correct the problem.

(2) Demonstration that the specified vehicle category, configuration or configuration subgroup has passed a retest conducted in accordance with § 205.160, and the conditions specified in the test request.

(b) The manufacturer may begin testing under paragraph (a)(2) of this section upon submitting the report required by paragraph (a)(1) of this section, and may cease continued testing upon making the demonstration required by paragraph (a)(2) of this section. The Administrator may require resumption of continued testing if he determines that the manufacturer has not satisfied the requirements of paragraphs (a)(1) and (2) of this section.

(c) Any vehicle failing the prescribed noise emission tests conducted pursuant to appendix I may not be distributed in commerce until necessary adjustments or repairs have been made and the vehicle passes a retest.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57721, Dec. 28, 1982]

### § 205.162 In-use requirements.

#### § 205.162-1 Warranty.

(a) The vehicle manufacturer who is required to production verify under this subpart must include in the owner's manual or in other information supplied to the ultimate purchaser the following statement:

NOISE EMISSIONS WARRANTY [RESERVED]

(b) [Reserved]

[45 FR 86708, Dec. 31, 1980, as amended at 48 FR 27040, June 13, 1983]

#### § 205.162-2 Tampering.

(a) For each configuration of vehicles covered by this part, the manufacturer shall develop a list of acts which, in his judgment, constitute the removal or rendering totally or partially inoperative, other than for purposes of maintenance, repair, or replacement of noise control devices or elements of design of the vehicle.

(b) The manufacturer shall include in the owner's manual the following information:

(1) The statement:

#### TAMPERING WITH NOISE CONTROL SYSTEM PROHIBITED

Federal law prohibits the following acts or causing thereof:

(1) The removal or rendering inoperative by any person other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any new vehicle for the purpose of noise control prior to its sale or delivery to the ultimate purchaser or while it is in use, or (2) the use of the vehicle after such device or element of design has been removed or rendered inoperative by any person.

(2) The statement:

Among those acts presumed to constitute tampering are the acts listed below.

Immediately following this statement, the manufacturer must include the list developed under paragraph (a) of this section.

(c) Any act included in the list prepared pursuant to paragraph (a) of this section is presumed to constitute tampering; however, in any case in which a presumed act of tampering has been committed and it can be shown that such act resulted in no increase in the noise level of the vehicle or that the vehicle still meets the noise emission standard of § 205.152, the act will not constitute tampering.

(d) The provisions of this section are not intended to preclude any State or local jurisdiction from adopting and enforcing its own prohibitions against the removal or rendering inoperative of

### § 205.162-3

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noise control systems on vehicles subject to this part.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57721, Dec. 28, 1982]

#### § 205.162-3 Instructions for maintenance, use, and repair.

(a)(1) The manufacturer must provide to the purchaser of each vehicle covered by this subpart written instructions for the proper maintenance, use, and repair of the vehicle in order to provide reasonable assurance of the elimination or minimization of noise emission degradation throughout the life of the vehicle.

(2) The purpose of the instructions is to inform purchasers and mechanics of the acts necessary to reasonably assure that degradation of noise emission level is eliminated or minimized during the life of the vehicle. Manufacturers shall prepare the instructions with this purpose in mind. The instructions shall be clear and, to the extent practicable, written in non-technical language.

(3) The instructions must not be used to secure an unfair competitive advantage. They shall not restrict replacement equipment to original equipment or restrict service to dealer service unless such manufacturer makes public the performance specifications on such equipment.

(b) For the purpose of encouraging proper maintenance, the manufacturer must provide a record or log book which shall contain a schedule for the performance of all required noise emission control maintenance. Space must be provided in this record book so that the purchaser can note what maintenance was done, by whom, where, and when.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57722, Dec. 28, 1982]

#### § 205.163 Recall of noncomplying motorcycles; relabeling of mislabeled motorcycles.

(a) Pursuant to section 11(d)(1) of the Act, the Administrator may issue an order to the manufacturer to recall, repair, modify, or relabel any vehicles distributed in commerce which are not in compliance with this subpart.

(b) A recall order issued under this section shall be based upon a determination by the Administrator that

vehicles of a specified category, configuration, or class which do not conform to the regulations or are improperly labeled have been distributed in commerce. This determination may be based on: (1) A technical analysis of the noise emission characteristics of the category, configuration, or class in question; or (2) any other relevant information, including test data.

(c) For the purpose of this section, noise emissions are to be measured by the appropriate test procedure prescribed in appendix I prior to sale or any other test which has been demonstrated to correlate with the prescribed test procedure in accordance with § 205.154.

(d) Any order to recall shall be issued only after notice and an opportunity for a hearing.

(e) All cost, including labor and parts, associated with the recall and repair or modification of noncomplying vehicles and relabeling of mislabeled vehicles under this section shall be borne by the manufacturer.

(f) This section shall not limit the discretion of the Administrator to take any other actions which are authorized by the Act.

#### APPENDIX I TO SUBPARTS D AND E—MOTORCYCLE NOISE EMISSION TEST PROCEDURES [NOTE]

EDITORIAL NOTE: The text of appendix I follows subpart E.

### Subpart E—Motorcycle Exhaust Systems

AUTHORITY: Sec. 6 of the Noise Control Act (42 U.S.C. 4905).

SOURCE: 45 FR 86718, Dec. 31, 1980, unless otherwise noted.

#### § 205.164 Applicability.

(a) Except as otherwise provided in these regulations, the provisions of this subpart apply to any motorcycle replacement exhaust system or motorcycle replacement exhaust system component which:

(1) Meets the definition of the term “new product” in the Act; and

(2) Is designed and marketed for use on any motorcycle subject to the provisions of subpart D of this part.